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ENVIRONMENTAL ADVOCATES,
THE OCEAN CONSERVANCY,
and WATERKEEPERS NORTHERN
CALIFORNIA

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

NORTHWEST ENVIRONMENTAL
ADVOCATES; THE OCEAN
CONSERVANCY; and WATERKEEPERS
NORTHERN CALIFORNIA and its
projects SAN FRANCISCO BAYKEEPER
and DELTAKEEPER,

Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Defendant.

Case No. CV 03-05760 SI

**DECLARATION OF MARK S.
RISKEDAHN IN SUPPORT OF
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

Date: December 3, 2004

Time: 9:00 a.m.

Courtroom: 10, 19th Floor

I, Mark S. Riskedahl, hereby declare:

1. I am a member of Northwest Environmental Advocates (NWEA) and make this
declaration to demonstrate that NWEA has standing to sue and to show that NWEA's members,

1 including myself, have been injured by the Environmental Protection Agency's (EPA) failure to
2 repeal the regulation exempting ballast water discharges from regulation. I have been a member
3 of NWEA for several years.

4 2. I am a member of NWEA because I believe in its mission and its efforts to protect and
5 restore the natural environment. I believe that NWEA's focus on the protection and restoration
6 of the Columbia River basin and on Columbia River salmon is particularly important. As a
7 resident of Portland, Oregon, and frequent user of the Columbia River and its tributaries, I
8 strongly support NWEA's advocacy, education, and litigation on behalf of that river ecosystem
9 and its inhabitants.

10 3. I regularly recreate on the Columbia River. I live less than three miles from the
11 mainstem Columbia River, and I ride my bike alongside the river at least once a month, and
12 much more frequently in the summer, viewing the water, birds, vegetation, and other components
13 of the Columbia River ecosystem. I occasionally join friends in boat trips on the river. I take
14 photos of ships, birds, salmon, vegetation, and the water when I travel near the Columbia. I plan
15 to continue these activities in the future and will most assuredly bike, boat and recreate on and
16 along the Columbia River this summer and autumn.

17 4. I feel a special connection with and regularly visit a place called Wood's Landing, a
18 property located along the Columbia River in Vancouver, WA, where chum salmon and
19 steelhead spawn. I have visited their spawning sites several times over the past three years to
20 watch and photograph the fish spawning. I derive great personal pleasure from watching the
21 coho spawn in cold springs that upwell along the banks of the Columbia and from watching the
22 steelhead make their way up a small, narrow stream that flows into the Columbia. The chum and
23 steelhead usually spawn in November and December, and I intend to return to Wood's Landing
24 to watch them spawn again this coming year. I also visit Wood's Landing when the fish are not
25 spawning and will continue to do so.

26 5. I regularly recreate on and near the tributaries of the Columbia River. I canoe and
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1 kayak on the Columbia Slough, a 60-mile channel that parallels and flows both in and out of the
2 mainstem Columbia River, once or twice a month. I also birdwatch and take photographs of
3 birds, including great blue herons, cormorants, and bald eagles, in the Columbia Slough. I canoe
4 and boat on the Willamette River, a major tributary to the Columbia River that runs through the
5 heart of Portland. I also ride my bike alongside the Willamette River at least twice a week and
6 frequently pause during my rides to observe the fish, birds, and other species that use the
7 Willamette and to observe the water itself. I plan to do all of these activities in the future.

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9 6. I also eat wild salmon and other fish from the Columbia River. I eat wild salmon in
10 part because I justify that these salmon will contain less contaminants than hatchery-raised
11 salmon and in part because I want to support the local salmon fishing economy, particularly that
12 of Native American fishermen. I eat salmon much less than I otherwise would, however, due in
13 part to my concerns about ballast water and its impact on salmon.

14 7. I am concerned about the effects that unregulated ballast water discharges have and
15 will have on my activities and on the species that I enjoy observing and photographing. I am
16 aware that ballast water discharges include non-native invasive species and various pollutants,
17 including oil and grease, heavy metals, and various chemicals and pathogens. I believe that these
18 discharges put the entire Columbia River ecosystem at risk.

19 8. I am particularly concerned about the impacts of invasive species on the ecology of the
20 Columbia River and on salmon in particular. I know that several non-native invasive species,
21 which were most likely introduced through ballast water discharges, have been discovered in the
22 Columbia River basin and that they present risks to the environment.

23 The Siberian prawn, for example, has been discovered throughout the Columbia Slough. This
24 invasive species is known to disrupt native food webs, including those of the salmon, both by
25 outcompeting native species for food and consuming native species directly. Many salmon
26 species in the Columbia River basin are already listed as threatened species under the
27 Endangered Species Act, and increased pressure on their food sources could push the salmon
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1 even closer to extinction.

2 9. Aquatic worms also introduced through ballast water have been discovered in the
3 lower Columbia River. These worms are known intermediate hosts for the parasite that causes
4 whirling disease. The parasites attack the cartilage of the head and spine of salmon and trout in
5 Oregon and make them more susceptible to predation and less able to feed and survive.
6 Although whirling disease was originally thought to exist mainly in inland fish hatcheries,
7 scientists have discovered a link between invasive aquatic worms and the parasite. I am
8 concerned that this link will allow whirling disease to infect wild salmon and trout, with
9 catastrophic results.

10 10. I am also concerned about the mitten crab, an invasive species introduced either
11 intentionally or via ballast water from Asia that has become uncontrollable in the San Francisco
12 Bay. This species competes with native fish for both habitat and food and threatens to displace
13 more native, fragile species. I know that at least one mitten crab has been found in the lower
14 Columbia River estuary, and I am very concerned that others may already be in the Columbia or
15 may spread here, as they have in other regions of the world.

16 11. I am also worried about non-native copepods (crustacean zooplankton) that may be
17 abundant in the lower Columbia River estuary. These tiny creatures are readily transmittable
18 through ballast water and, once they enter a water ecosystem, can quickly dominate the system
19 and disrupt native food webs. To date, there is no known way to remove copepods from
20 ecosystems once they become established.

21 12. Due in part to my concerns about invasive species and pollutants discharged in
22 ballast water, I have altered my behaviors in some ways and enjoy other activities less than I
23 otherwise would. For example, because of my concern about the pollution discharged from
24 ballast water, I am often concerned about direct contact with waters that are affected by ballast
25 water. I am careful when I canoe, kayak, and boat to avoid contact with the water and often find
26 myself paddling more slowly and in a more cautious manner than I otherwise would in streams in
27 which I do not fear direct contact. I do not enjoy these sports as much when I have to be so
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1 cautious simply to avoid touching the water. As another example, I do not eat as much Columbia
2 River salmon as I otherwise would were I not concerned about the impacts of ballast water
3 discharges. I am concerned about the heavy metal contamination from ballast water that could
4 bioaccumulate in fish that I consume. To avoid overexposure to this contamination, I limit my
5 fish intake. Similarly, although I enjoy Dungeness crab and other shellfish found in the
6 Columbia River estuary and in the Pacific Ocean just beyond the mouth of the Columbia River, I
7 do not eat these fish very often because of my concerns about their limited stocks and species
8 viability. I avoid eating other fish, such as various rock fish, for the same reasons. I would eat
9 these fish more often if I believed that they were not at risk due to invasive species and other
10 threats. I also enjoy photography less than I otherwise would because I fear that the animals that
11 I photograph are being harmed by heavy metals and other toxic substances discharged in ballast
12 water. Viewing salmon spawning is also a bittersweet experience: I am both amazed at these
13 creatures' ability to navigate up the Columbia River for the sole purpose of continuing their
14 species' viability and saddened by the thought of the gauntlet of pollution, hot water, and
15 invasive species that they must endure.
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17 13. I am familiar with the EPA rule that exempts ballast water discharges from regulation
18 under the Clean Water Act. I believe that this exemption has exacerbated the problems presented
19 by ballast water discharges. If EPA had not exempted these discharges, there would be
20 mandatory controls in place to limit ballast water discharges and the pollution that they contain.
21 Instead, EPA's exemption has authorized uncontrolled discharges and provided for no means of
22 monitoring, treatment, or any other protective measures. This, in turn, has increased the risk that
23 areas that I use and enjoy will suffer from invasive species and other pollutants released through
24 ballast water discharges.

25 14. If EPA's rule were invalidated, I believe that this would be a necessary first step
26 toward controlling ballast water discharges and eliminating the risk that additional invasive
27 species and pollutants will be introduced through ballast water. Once EPA's rule is invalidated,
28 ships will either not be allowed to discharge their ballast water into waters or will need a permit

1 to do so. A prohibition against any discharges will, at the very least, help ensure that problems
2 caused by ballast water are not exacerbated. A permitting scheme will likely require that ships
3 treat their ballast water and ensure that the water does not contain live creatures or high levels of
4 heavy metals. If either scenario comes to pass, my concerns about ongoing discharges will be
5 remedied, at least in part.

6 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
7 and correct. Executed on this 9th day of July, 2004 at Portland, Oregon.

8 /s/ Mark S. Riskedahl
9 Mark S. Riskedahl

10 I, Deborah A. Sivas, pursuant to ECF General Order 45X, attest that Mark S. Riskedahl
11 has concurred in and authorized the filing of this declaration with this Court.

12 /s/ Deborah A. Sivas
13 Deborah A. Sivas
14 Attorney for Plaintiffs
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